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REMARKS

Claims 1-15 are pending in the application.

Claims 1-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Bhullar et al. (USPN 6,540,890). Bhullar et al. disclose a biosensor that comprises a substrate, a reagent positioned on the substrate, and a cover with at least one channel carved therein. (Column 2 lines 8-10)

The rejection proffers that Bhullar et al. discloses "a spacer substrate (1) positioned on the support substrate". See, page 2, last paragraph of the Office Action. That proffer is respectfully traversed as there is no disclosure or suggestion in Bhullar et al. or either a spacer substrate or of the reference numeral (1). As such, it is submitted that Bhullar et al. fails to disclose or suggest the existence of a spacer substrate, let alone a spacer substrate having members as recited in claims 1 and 8.

It is further submitted that Bhullar et al. teach away from the biosensor of claims 1 and 8. Referring specifically to claim 1, it is noted that the claim recites "a cover positioned on the spacer substrate". Bhullar et al. not only fail to disclose a spacer substrate, but Bhullar et al. exclusively disclose a cover (12) that is coupled to the substrate (14). The cover (12) is coupled to that substrate (14), for example by an adhesive. (Column 2 lines 43-49 and Figures 1, 3, 5, 6, 8, and 9).

Referring again to both claims 1 and 8, each recite a "channel extending between members of the spacer substrate". Bhullar et al. not only fail to disclose a spacer substrate, but Bhullar et al. exclusively disclose that flow channel (62) is carved in a first surface (48) of the cover (12). (Column 2 lines 50-54). It is noted that the purpose of the channel is to provide precise fluidic channels for disposable test with high dimensional precision. (Column 2 lines 8-14). Bhullar et al. fail to provide any teaching or suggestion that would lead one away from this carved cover design.

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It is submitted that the teaching or suggestions, as well as the expectation of success, must come from the prior art and not applicants' disclosure. With that in mind, it becomes apparent that Bhullar et al. fail to disclose or suggest a biosensor that comprises "a support substrate having first and second ends, electrodes positioned on the support substrate, . . . a spacer substrate positioned on the support substrate, the spacer substrate having members, and a cover positioned on the spacer substrate, the cover cooperating with the support substrate to define a channel, the channel extending between members of the spacer substrate and including an inlet adjacent to the first end of the support substrate, and opposite ends, each electrode array being positioned in the channel adjacent to one of the opposite ends", as required by claim 1.

It is further apparent in light of the above, that Bhullar et al. fail to disclose or suggest a biosensor comprising "a support substrate, a first electrode set positioned on the support substrate, a second electrode set positioned on the support substrate, the first and second electrode sets being spaced-apart from one another, a spacer substrate positioned on the support substrate, the spacer substrate having members, and a cover extending across the first and second electrode sets, the cover cooperating with the support substrate to define a generally linear capillary channel extending between members of the spacer substrate, the channel having opposing first and second ends and an inlet positioned between the ends and between the first and second electrode sets", as recited by claim 8.

Accordingly, claims 1 and 8 are not anticipated and are believed to be patentable over Bhullar et al. Claims 2-7 depend from claim 1 and claims 9-15 depend from claim 8. Reconsideration of the rejection in light of the amendments, leading to withdrawal of the rejection and allowance of the claims is respectfully requested.

The claims as submitted herein are believed to be in condition for allowance, and allowance of the application is respectfully requested. In addition, it is requested that any

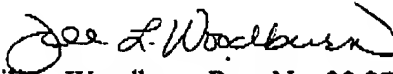
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fees due be charged to Deposit Account Number 02-2958 with reference to (RDID 0090 US).

Respectfully submitted,

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